

Notice of Allowability

Application No.

10/681,993

Applicant(s)

ISOBE, SHINOBU

Examiner

Phallaka Kik

Art Unit

2825

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicant's amendment and drawings filed on 4/3/2006 and interview conducted on 4/14/2006.
2. ☒ The allowed claim(s) is/are 1-2,5, wherein claims 3-4,6-7 have been cancelled and claim 5 has been renumbered as 3.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
- ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- ☐ Notice of Informal Patent Application (PTO-152)
- ☒ Interview Summary (PTO-413), Paper No./Mail Date 20060414.
- ☒ Examiner's Amendment/Comment
- ☒ Examiner's Statement of Reasons for Allowance
- ☐ Other _____

DETAILED ACTION

1. This Office Action responds to Applicant's amendment and drawings filed on 4/3/2006 and interview conducted on 4/14/2006. Claims 1-7 are pending, wherein claims 1-2,5 have been amended and claims 3-4,6-7 have been withdrawn from consideration as being directed to non-elected inventions without traverse. Claims 1-2,5 have been examined and are allowed, wherein claims 3-7 are subjected to the following Examiner's Amendment.

Election/Restrictions

2. This application is in condition for allowance except for the presence of claims 3-4,6-7 directed to inventions non-elected without traverse. Accordingly, claims 3-4,6-7 been cancelled as given in the following Examiner's Amendment.

EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Alphonso Collins (Reg. No. 43,559) on 4/14/2006.

The application has been amended as follows:

In the claim:

As per **claims 3-4,6-7**, the claims have been cancelled as being directed to inventions non-elected without traverse as noted above.

As per **claim 5**, --embedded on a computer-readable medium-- has been inserted after "program" (line 1).

Drawings

4. The drawings were received on 4/3/2006. These drawings are approved by the Examiner.

Allowable Subject Matter

5. **Claims 1-2,5** are allowed.

6. The following is an examiner's statement of reasons for allowance:

As per **claims 1-2,5**, Applicant's amendment and arguments filed on 4/3/2006 set forth the patentability of Applicant's claimed invention which the prior arts made of record failed to teach or suggest (see Applicant's amendment filed on 4/3/2006, pages 7-10). Other prior arts made of record similarly failed to teach or suggest the inventive steps/means as claimed. Furthermore, as per claim 5, the claim has been amended to overcome 35 USC 101 problem by placing it into one of the four statutory categories of invention (i.e., machine), in which the program embedded on the computer-readable medium would have the necessary ability of realizing the design program's functionality when executed by the computer (see Lowry, 32 F. 3d at 1583-84; 32 USPQ2d at 1035). Accordingly, the claimed invention is novel and un-obvious over the prior arts made of record.

Conclusion

7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phallaka Kik whose telephone number is 571-272-1895. The examiner can normally be reached on Monday-Thursday, 8:30AM-7PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Chiang can be reached on 571-272-7483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner for Patents
P. O. Box 1450

Alexandria, VA 22313-1450

or faxed to:

571-273-8300



Phallaka Kik
U.S. Patent Examiner
April 13, 2006